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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Craig Phillip Blades,

10 Plaintiff,

11 v.

12 Commissioner of Social Security  
13 Administration,

14 Defendant.

No. CV-24-00006-PHX-KML

**ORDER**

15 Plaintiff Craig Phillip Blades was the representative payee for his daughter's  
16 benefits from the Social Security Administration ("SSA"). In 2014, the SSA claimed  
17 Blades had misrepresented his status as custodian of his daughter and demanded he repay  
18 \$45,055.00 in benefits he received on behalf of his daughter. An Administrative Law Judge  
19 later cut that amount in half, but Blades believes he should not be liable for even the  
20 reduced amount. The standard under which the court must view the ALJ's decision is  
21 deferential, but there is no indication the ALJ accounted for Blades's payment of child  
22 support. Therefore, the case is remanded for recalculation or an explanation why  
23 recalculation is not merited.

24 **I. Background**

25 Craig Blades and Janette Blades had a daughter, Vanessa, in 1996. (*See* Doc. 7-2 at  
26 23 (stating Vanessa turned 18 in 2014).) Blades and Janette were married in 2000 and  
27 divorced in 2003. (Doc. 7-3 at 7.) In connection with their divorce Blades and Janette  
28 executed a custody agreement and parenting plan where each parent had custody of

1 Vanessa for set amounts. In addition, Blades was required to pay Janette \$312.00 per month  
2 in child support.<sup>1</sup> (Doc. 7-3 at 8, 18.) In 2005, Blades and Janette agreed to a modified  
3 parenting plan. (Doc. 7-8 at 9.) The modified plan required Blades have custody of Vanessa  
4 for two days each week and two weekends per month. (Doc. 7-8 at 9-10.)

5 In 2010, Blades was found disabled and began receiving disability benefits. A child  
6 is entitled to benefits if her parent is disabled but the benefits are paid to a “representative  
7 payee” for that payee to spend on supporting the child. The representative payee must use  
8 the benefits received only for the beneficiary, keep the benefits separate from his own  
9 funds, and conserve benefits not needed for the beneficiary’s current needs. 20 C.F.R.  
10 § 404.2035; POMS GN 00502.114 (2023), *available at*  
11 <https://secure.ssa.gov/poms.nsf/lnx/0200502114> (last visited November 13, 2024). In  
12 September 2011, Blades visited an SSA office to make a claim on Vanessa’s behalf. (Doc.  
13 7-2 at 9.) An SSA employee interviewed Blades and entered Blades’s responses into a  
14 computerized application. Blades later received a written copy of the application reflecting  
15 his answers. According to the written application, Blades told the SSA Vanessa “lives with  
16 me.” (Doc. 7-2 at 10.) Blades also claimed to “be the best payee for [Vanessa] because [he  
17 was] her relative and [he] take[s] care of her.” (Doc. 7-2 at 10.) In making the application  
18 Blades affirmed that if he were selected as the representative payee, he would “[u]se the  
19 payments for [Vanessa’s] current needs and save any currently unneeded benefits for future  
20 use.” (Doc. 7-2 at 11.) Blades also agreed he would notify the SSA if Vanessa’s “living  
21 arrangements” changed. (Doc. 7-2 at 11.)

22 In October 2011, the SSA sent Blades a letter informing him Vanessa was entitled  
23 to benefits beginning January 2010 and he had been selected as the representative payee.  
24 (Doc. 7-2 at 15.) Blades would receive on Vanessa’s behalf \$17,703 in back payments and  
25 \$843 per month going forward. The letter reminded Blades it was important to inform the  
26 SSA of any changes regarding Vanessa. (Doc. 7-2 at 16.) And the letter included a

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28 <sup>1</sup> The ALJ stated the monthly child support was \$317.00. (Doc. 7-1 at 104.) The difference  
between the ALJ’s amount and the amount reflected in the divorce decree is not explained  
but may be due to a processing fee.

1 pamphlet discussing Blades's obligations as representative payee.

2 In January 2014, Vanessa was applying for federal financial aid to attend college.  
3 (Doc. 7-1 at 23.) According to Blades, Janette and Vanessa reported Blades as Vanessa's  
4 primary parent because Blades's income was lower than Janette's and that would entitle  
5 Vanessa to more generous financial aid. Four months later, on May 15, 2014, Janette went  
6 to an SSA office to report "payee misuse." (Doc. 7-4 at 13.) At that visit Janette informed  
7 the SSA that Vanessa had "resided with [Janette] since birth." (Doc. 7-1 at 13.) Janette  
8 submitted a declaration under penalty of perjury stating Craig had "misused" Vanessa's  
9 benefits. (Doc. 7-3 at 27.) Janette's "allegation of misuse" stated in relevant part:

10 Child in common resides with me. I received recent knowledge  
11 that [Blades] has been receiving a monetary benefit for our  
12 daughter through information rec'd through a school teacher.  
13 Craig is also delinquent on child support and has told Vanessa  
14 that he is no longer going to pay this because he doesn't know  
15 what I am spending the money on.

16 (Doc. 7-4 at 1.)

17 On June 11, 2014, Vanessa also submitted a declaration under penalty of perjury.  
18 That declaration stated:

19 Around May 2014 I became aware of the benefit that my father  
20 Craig Blades was receiving on my behalf. I have been living  
21 with my mother Janette Reeves since their divorce in 2003. I  
22 have visited my father and stayed over night occasionally but  
23 did not live with him. I found out about the benefit from a  
24 teacher at school. I do not believe that this money has been  
25 used for me. He pays for my phone bill monthly.

26 (Doc. 7-4 at 9-10.) Based on these statements, the SSA investigated and concluded Blades  
27 had "misrepresented his status as custodian of" Vanessa. (Doc. 7-1 at 101.) The SSA  
28 determined Blades "made an incorrect and false statement when he indicated [Vanessa]  
was living with him since 2010, and [Blades] knew or should have known his statement  
was false." (Doc. 7-1 at 101.) The SSA concluded Blades was required to repay \$43,215,  
the total Blades had received as representative payee for Vanessa from 2010 through  
Vanessa turning 18 in 2014. Blades sought review within the SSA and appeared before an  
ALJ on two dates in 2021. (Doc. 7-1 at 101.) Shortly after the second hearing, the ALJ

1 issued a written decision finding Blades had been overpaid but in the amount of one-half  
2 of the full amount, *i.e.*, \$21,607.50.

3 The ALJ found Blades and Janette “had physical custody and joint decision-making  
4 authority under Arizona law for [Vanessa].” (Doc. 7-1 at 105.) Thus, it did not qualify as  
5 a “misuse of funds simply because [Blades had been] named as the representative payee.”  
6 (Doc. 7-1 at 105.) But Blades did misuse Vanessa’s benefits by failing “to inform  
7 [Vanessa] of her benefits and to discuss with her the ways the funds were to be used to best  
8 meet her needs.” (Doc. 7-1 at 105.) Based on the written statements provided by Janette  
9 and Vanessa, as well as unidentified statements by Blades, the ALJ concluded Blades first  
10 received benefits in 2011 but “did not disclose the award of the benefits or the ways in  
11 which they would be used until May of 2014.” (Doc. 7-1 at 105.) The ALJ seemed to  
12 recognize Blades had been paying \$312 per month in child support, but “the fact remain[ed]  
13 that he withheld over \$500.00 per month outside the knowledge of [Vanessa] or [Janette].”  
14 (Doc. 7-1 at 105.)

15 In ruling how much Blades should be required to repay, the ALJ found Blades had  
16 received \$43,215 and had “used at least half of the amount he received . . . to provide food,  
17 shelter, necessities, and other things for [Vanessa’s] welfare.” (Doc. 7-1 at 108.) But Blades  
18 “was not entitled to exercise control over the entire amount.” (Doc. 7-1 at 108.) Thus,  
19 Blades was required to repay “one half of the amount he received.” Thus, Blades was  
20 required to repay \$21,607.50. (Doc. 7-1 at 108.) Blades sought review within the SSA of  
21 the ALJ’s decision but was not successful. Blades then filed the present suit.<sup>2</sup>

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23 <sup>2</sup> The SSA argues in a single sentence, without citing relevant authority, that Blades did  
24 not appeal the “2014 determination that he misused the funds, which is therefore not  
25 properly before this Court.” (Doc. 20 at 4.) Presumably the SSA is arguing that Blades  
26 cannot attack the finding that he had committed misuse of funds. Instead, Blades may only  
27 argue he was entitled to a waiver of collection. *See, e.g., Manitsas v. Colvin*, 565 F. App’x  
28 652 (9th Cir. 2014) (failure to seek reconsideration of overpayment determination left  
waiver as only issue). In the decision now on review, the ALJ believed she was determining  
“whether there has been an overpayment of Disability Insurance Benefits” as well as  
whether any overpayment should be waived. (Doc. 7-1 at 102.) Based on the ALJ’s own  
belief that she was assessing if an overpayment had occurred and the SSA’s half-hearted  
argument that the misuse determination was not preserved, the court will consider the  
merits.

## II. Analysis

The court may set aside the ALJ's decision only if it is not supported by substantial evidence or is based on legal error. *Orn v. Astrue*, 495 F.3d 625, 630 (9th Cir. 2007). In cases involving overpayment of benefits, "the Commissioner bears the burden of proving the fact and amount of overpayment." *McCarthy v. Apfel*, 221 F.3d 1119, 1124 (9th Cir. 2000).

As a representative payee, Blades was required to use Vanessa's benefits for her maintenance, including costs incurred in obtaining food, shelter, clothing, medical care, and personal comfort items. 20 C.F.R. § 404.2040(a)(1). If Blades did not spend Vanessa's benefits to support her, he "misused" the benefits. 42 U.S.C. § 1383(a)(2)(A)(iv). And if Blades misused the benefits, he is required to repay the misused funds unless an exception applies. 20 C.F.R. § 404.2041(a).

Blades's briefing primarily argues the ALJ made factually incorrect findings. For example, the ALJ found Blades had not informed Vanessa and Janette about his receipt of benefits. Blades argues that is "false" and Blades did talk to Vanessa about the benefits. (Doc. 18 at 2.) Blades also argues he never submitted a written application claiming Vanessa was living with him and the paperwork in the record was not sufficient to conclude Blades had made that assertion. (Doc. 18 at 5.) And Blades argues the ALJ did not sufficiently address Vanessa's financial aid application and how that indicated he was providing more support than Vanessa or Janette claimed. All these factual challenges fail because conflicts in the evidence were for the ALJ to resolve. *See Wischmann v. Kijakazi*, 68 F.4th 498, 504 (9th Cir. 2023) (noting ALJ has duty to resolve inconsistencies and conflicts in evidence). But construed liberally, Blades is also arguing the ALJ miscalculated the amount of benefits he should be required to repay. That argument may have merit.

According to Blades, the ALJ's ruling requiring repayment of \$21,607.50 did not account for the child support he paid during the time he was the representative payee. Blades claims he continued to pay the same child support amount after he became disabled

1 despite his “disability income [being] drastically smaller than his previous working salary.”  
 2 (Doc. 18 at 3.) Accordingly, Blades states he “overpay[ed] child support” while he was  
 3 disabled because his actual income would have required far less than \$312.00 per month.  
 4 (Doc. 23 at 10.) After filing his reply Blades requested leave to submit a surreply that  
 5 provides additional arguments that the ALJ did not properly account for the child support  
 6 Blades paid. (Doc. 24.) Because the court is unable to determine how the ALJ accounted  
 7 for the child support, remand for further proceedings is necessary.

8 The ALJ found Blades had presented evidence “he used at least half of the amount  
 9 he received for [Vanessa’s] benefit to provide food, shelter, necessities, and other things  
 10 for her welfare.” (Doc. 7-1 at 108.) The ALJ also found Blades had “paid \$317.00 [sic] per  
 11 month in child support out of the [benefits] he received each month for [Vanessa].” (Doc.  
 12 7-1 at 105.) There were 50 months where Blades received benefits as Vanessa’s  
 13 representative payee. (Doc. 7-1 at 107.) Accepting that Blades paid child support for all  
 14 those months, Blades would have paid Janette a total of \$15,600 in child support out of the  
 15 benefits he received as representative payee. Accordingly, under the ALJ’s own analysis,  
 16 Blades may have expended \$21,607.50 of the benefits he received supporting Vanessa *and*  
 17 paid Janette \$15,600 in child support, which would have totaled \$37,207.50 towards  
 18 supporting Vanessa.<sup>3</sup>

19 But it is not clear whether the ALJ included the child support payments in  
 20 calculating the amount Blades should be required to repay, nor did the ALJ explain why it  
 21 was proper to ignore the child support payments. Perhaps the ALJ was attempting to  
 22 convey the \$21,607.50 Blades expended on supporting Vanessa included \$15,600 paid in  
 23 child support. Alternatively, perhaps it was proper for the ALJ to ignore the child support  
 24 payments. Or perhaps the ALJ simply overlooked the \$15,600 paid in child support. The  
 25 court cannot rule out any of these possibilities. Therefore, the court cannot determine

26 <sup>3</sup> Arizona’s Child Support Guidelines in effect prior to the date of Blades’s divorce  
 27 provided that if Janette had been the representative payee for Vanessa’s benefits, Blades  
 28 would not have been required to pay any child support. *See* Arizona Child Support  
 Guidelines, section 26(B), available at  
<https://www.azcourts.gov/Portals/31/Child%20Support/2005CSGRED.pdf> (last visited  
 October 30, 2024).

1 whether the amount Blades must repay was calculated properly. Without a sufficient  
2 showing how the ALJ performed the calculation, the SSA has not carried its burden of  
3 proving the “amount of overpayment” and this case is remanded for further proceedings.  
4 *McCarthy v. Apfel*, 221 F.3d 1119, 1124 (9th Cir. 2000).

5 Accordingly,

6 **IT IS ORDERED** the decision by the Commissioner is **VACATED** and this case  
7 is remanded for additional proceedings consistent with this order. The Clerk of Court shall  
8 enter judgment in favor of plaintiff and against defendant.

9 **IT IS FURTHER ORDERED** the Motion to Supplement (Doc. 24) is **GRANTED**.

10 Dated this 13th day of November, 2024.

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**Honorable Krissa M. Lanham**  
**United States District Judge**